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State of California  
Energy Resources Conservation  
And Development Commission

In the matter of	)	Docket No. 01-AFC- 21
Application for Certification	)	Pre- Hearing Conference
Of the Tesla Power Plant	)	Statement Intervenor Sarvey

Pursuant to the committee order dated July 7,2003 Intervenor Sarvey herby offers his Prehearing conference statement.

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Date

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Robert Sarvey

**1) Topic Areas that are complete and ready to proceed to Evidentiary Hearings.**

- 1) Cultural Resources
- 2) Power Plant Efficiency
- 3) Facility Design
- 4) Geology and Paleontology
- 5) Hazardous Materials
- 6) Noise and Vibration
- 7) Public Health
- 8) Socioeconomics
- 9) Traffic and Transportation
- 10) Transmission Line Safety
- 11) Transmission System Engineering
- 12) Visual Resources
- 13) Waste Management
- 14) Soil and Water Resources
- 15) Worker Safety

**2) The Topic Areas that are not complete and not ready to proceed to evidentiary hearings and the reasons therefore.**

- 1) Air Quality- Intervenor Sarvey has entered a motion on April 4, 2003 (Docket Number 28488) to require a motion to compel a data response from the Energy Commission Staff on Air Quality Matters. Since the Committee has failed to respond Intervenor Sarvey requests a hearing in response to why his motion has been ignored in violation of the Warren Alquist Act is necessary.
- 2) Biology- EPA Region 9 is not in possession of a Biological Opinion to complete the Biological Requirements of the Federal Agency.

- 3) Land Use- An assessment by the CEC Staff is necessary to determine the amount of generation necessary for Eastern Alameda County and the generation already available in the County to determine if the Tesla Power Plant is necessary to meet the Electrical needs of Eastern Alameda County in accordance with Measure D. Is measure D violated by the Tesla Project which would prevent the project from being removed from the Williamson Act?

**3) Topic Area that remain disputed and require adjudication and the precise nature of the dispute for each topic.**

- 1) Air Quality – Cumulative Air Quality Study requested in data request is necessary to assess impacts from the facility.
- 2) Air Quality-Is the project feasible in light of the unmitigated air pollution from the East Altamont Energy Center and other Projects in the area.
- 3) Air Quality - What mitigation will offset the projects impacts? Have all impacts been identified? Is the mitigation proposed adequate?
- 4) Biology - Does the mitigation proposed adequately address the impacts from the power project and does the plant ruin the wild lands mitigation parcel because of the noise and lighting from the plant
- 5) Land Use - Does the project conform to measure D the Eastern Alameda County Land use Initiative? Does the Tesla Power Plant provide more energy than is necessary for Eastern Alameda County? Does the Power Plant comply with other County Land use ordinances?
- 6) Compliance- Does the project owner maintain compliance with all LORS that are applicable to their existing facilities and can the power project be licensed without material changes top the conditions of certification
- 7) Water Resources- What Cooling Method best achieves the directives of the state law regarding water use in a power plant?
- 8) Socioeconomics- Since 57% of the population in Alameda county surrounding the TPP is colored what are the environmental justice implications of locating power plants in minority community.
- 9) What mitigation will be required to offset impacts to the Tracy Fire Department and law enforcement agencies in the area that must protect

workers and the populace from incident involving the power plant. Consider that this is the third CEC plant that has no proposed fire department mitigation in San Joaquin County although San Joaquin County agencies will be the first responders. FPL's Safety record.

## Witness Identification

### Air Quality

**Matt Haber** Statements on Cumulative impacts from the three Energy Facilities that are being licensed by the CEC. Explanation of comments made by the EPA on the PDOC. Will require subpoena.

**Tuan Ngo** California Energy Commission - Mr. Ngo will testify to unmitigated impacts from the East Altamont Energy Center. Will require subpoena.

### Land Use

**Richard Schneider**- Mr. Schneider will testify that the project is not compatible with Measure D Alameda County Agriculture and Open Space Initiative.

### Biology

**Shawn Smallwood PHD.** Dr. Smallwood will testify about the projects impacts and mitigation proposed.

### Public Health

A member of the Asthma Coalition will testify about the projects health impacts.

### Worker Safety and Fire protection-

Tracy Fire Department will testify to the projects impacts on local fire services and potential danger from inadequate response times.

## 5) Topic areas intervenor wishes to Cross examine witnesses.

Topic	Witness	Time for Cross-examination
Air Quality	Staff	1 hour

	Applicant	1 hour
	SJVUAPCD	½ hour
Land Use	Staff	½ hour
	Applicant	½ hour
Biology	Staff	15 minutes
	Applicant	15 minutes
Public Health	Staff	15 minutes
	Applicant	15 minutes
Worker Safety Fire	Staff	15 minutes
	Applicant	15 minutes
Compliance	Staff (Air District)	30 minutes
	Applicant	30 minutes
Water Resources	Staff	30 minutes
	Applicant	30 minutes
Alternatives	Staff	15 minutes
	Applicant	15 minutes
Socioeconomics	Staff	10 minutes
	Applicant	10 minutes

## Exhibits

- 1) Comments on the PDOC by EPA Docket # 26775
- 2) CEC Staffs mitigation proposal for the EAEC FSA p. 5.1-15/16
- 3) Tracy Fire Letters
- 4) Tesla AQMA with the SJVUAPCD Docket # 25814
- 5) EPA memorandum on pre 1990 ERC's

- 6) Mountain House EIR Air Quality Impacts
- 7) South Schulte EIR Air Quality Impacts
- 8) Tracy Hills EIR Air Quality Impacts
- 9) Gateway Project EIR Air Quality Impacts
- 10) Portfolio of FPL Safety Incidents
- 11) FPL Compliance Records
- 12) Air Resources Board Memorandum to Air Pollution Control Officers  
Road paving Credits Docket #25504
- 13) Tracy Press Article Dated February 21, 2002 Comments from Matt  
Haber
- 14) Calpine Contractor Dies in Blast SF Chronicle 7/22/03
- 15) Calpine peaker plant has gas explosion
- 16) Barbara Matthews letters to Chairman Keese
- 17) Federal Annual Average PM 10 design Values SJVUAPCD PM-10  
Plan 5-9
- 18) Tesla Power Plant Proposed Revisions to 24-Hour average PM-10  
Emission Rates Docket # 25520
- 19) FPL Fax to the city of Tracy dated 4/14/03
- 20) Sue Orloff letter to Andrea Erickson dated September 30,2002  
Docket #27502
- 21) Staff Status Report #4 11-05-02 Docket # 27308
- 22) Email from Janice Gan to Andrea Erich son Docket # 28971
- 23) Notional marine Fisheries Service letter to Paul Richins dated 5-23-  
03
- 24) Curtis Creel DWR letter to Tony Mediati Dated October 28.2002
- 25) Contra Costa Water District Comments on Preliminary Staff  
Assessment Docket #28270
- 26) Petition for order directing response to intervenor Data Request  
Docket #28418

- 27) Data Request 1 to the California Energy Commission Staff. Docket #28086
- 28) Concerns of the Public Regarding PM-10m Emissions from the cooling Tower Docket # 27309
- 29) Comments on the PDOC Intervenor Survey Docket # 26843
- 30) Review of Air Quality Impacts analysis CARB Docket # 25078
- 31) Sierra Club Resolution Opposing the Tesla Power Project
- 32) Sierra Club Resolution Opposing the East Altamont Energy Center